

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

\* \* \* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 19-CR-117-WMC

ADRIAN C. GARDINER,

Madison, Wisconsin

March 25, 2021

Defendant.

11:30 a.m.

\* \* \* \* \*

STENOGRAPHIC TRANSCRIPT OF VIDEOCONFERENCE PLEA HEARING  
HELD BEFORE THE HONORABLE WILLIAM M. CONLEY

APPEARANCES:

For the Plaintiff:

Office of the United States Attorney  
BY: ELIZABETH ALTMAN  
Assistant United States Attorney  
222 West Washington Avenue, Suite 700  
Madison, Wisconsin 53703

For the Defendant:

Tracey Wood & Associates  
BY: JOSHUA HARGROVE  
1 South Pinckney Street  
Suite 950  
Madison, Wisconsin 53703

Also Present:

Adrian C. Gardiner, Defendant

CHERYL A. SEEMAN, RMR, CRR  
Official Court Reporter  
United States District Court  
120 North Henry Street, Room 410  
Madison, Wisconsin 53703  
1-608-261-5708

1 (Called to order at 11:30 a.m.)

2 THE CLERK: Case No. 19-CR-117, *United States of*  
3 *America v. Adrian C. Gardiner*, called for a plea hearing.  
4 May we have the appearances, please?

5 MS. ALTMAN: Good morning, Your Honor. The  
6 United States appears by Elizabeth Altman.

7 MR. HARGROVE: And Mr. Gardiner does appear  
8 represented by counsel, Joshua Hargrove. Mr. Gardiner is  
9 appearing via Zoom from the Sauk County Jail and I'm  
10 appearing from my office via Zoom.

11 THE COURT: Very good. I'll begin, since we are  
12 here to proceed on a plea based on a written plea  
13 agreement signed by the defendant on February 16th and  
14 previously provided to the Court, just to confirm directly  
15 with you, Mr. Gardiner, that you do in fact wish to  
16 proceed via Zoom videoconference in light of the continued  
17 risks of COVID-19 rather than exercise your right to  
18 appear in front of me in person for purposes of your plea;  
19 is that correct?

20 THE DEFENDANT: Yes, that's correct, Your Honor.

21 THE COURT: All right. And I have your signed  
22 waiver to the same effect. So the only other thing I need  
23 to do preliminarily is, because it doesn't appear this was  
24 done in any earlier proceeding, I'll confirm that the  
25 government has an obligation to disclose any favorable

1 evidence to the accused under *Brady v. Maryland* and its  
2 progeny and need only have some weight and include both  
3 exculpatory and impeaching evidence. Failure to produce  
4 that information could be -- or could result in sanctions,  
5 including but not limited to adverse jury instructions,  
6 dismissal of charges and contempt proceedings.

7 Ms. Altman, I'm certain that the government is aware  
8 of its obligation. I'll just ask you to confirm both your  
9 awareness and whether or not the government has completed  
10 that obligation.

11 MS. ALTMAN: Yes, Your Honor, I am aware of our  
12 obligation and I have complied with it and completed it.

13 THE COURT: And, Mr. Hargrove, I assume you have  
14 no reason to think that that has not occurred in this  
15 case.

16 MR. HARGROVE: No, I have had no reason. I've  
17 had a number of conversations with the government.

18 THE COURT: Very good. Then I will turn to you  
19 again, Mr. Hargrove, just to confirm that you and your  
20 client have received a copy of the indictment and ask  
21 whether you wish it read aloud or waive reading.

22 MR. HARGROVE: We do waive reading, Judge. My  
23 client and I have received it. We've gone through the  
24 indictment and clearly all the discovery and all the  
25 necessary paperwork for this hearing.

1           THE COURT: Very good. Then if you would,  
2 Ms. Altman, state the maximum and applicable minimum  
3 penalties to which Mr. Gardiner would be subject if found  
4 guilty of Count 1 of the indictment.

5           MS. ALTMAN: Yes, Your Honor. Count 1 charges a  
6 violation of 18, 2251, which carries mandatory minimum  
7 penalties of 15 years in prison and a five-year period of  
8 supervised release and maximum penalties of 30 years in  
9 prison, a \$250,000 fine, a lifetime period of supervised  
10 release, a \$100 special assessment, an additional \$5,000  
11 special assessment pursuant to statute, and the entry of  
12 an appropriate restitution order.

13           THE COURT: And I note in the plea agreement that  
14 there is a possibility, if the defendant met certain  
15 standards, for an even higher mandatory minimum. I  
16 assume, by your not mentioning that, you have no reason to  
17 believe those higher mandatory minimums and maximums will  
18 apply here.

19           MS. ALTMAN: I have no reason to believe that to  
20 be the case, Your Honor.

21           THE COURT: All right. And, Mr. Hargrove, have  
22 you had sufficient time to talk with your client about the  
23 charges against him, the consequences of a plea of guilty  
24 and any defenses that he may have to the charges?

25           MR. HARGROVE: Your Honor, we have talked about

1 the charges, the maximums, the mandatory minimums,  
2 possible defenses, we've talked about the government's  
3 offer and we've gone through the discovery thoroughly and  
4 discussed different trajectories, up to and including  
5 trial and sentencing.

6 THE COURT: All right. Then, Mr. Gardiner, I'll  
7 turn to you to confirm, my understanding is that you do  
8 wish to proceed to enter a plea of guilty today. Is that  
9 correct?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Before asking for your plea, it's my  
12 obligation to ensure that you're acting freely and  
13 voluntarily, with an understanding of both the charges  
14 against you as well as the consequences of a plea of  
15 guilty, and also to ensure that there's a factual basis  
16 for your plea. So at this time I am going to ask that you  
17 raise your right hand and be sworn by our clerk.

18 **ADRIAN C. GARDINER, DEFENDANT, SWORN**

19 THE COURT: All right. Then my first -- you can  
20 lower your hand -- my first questions just go to assure  
21 that you're capable and ready to proceed today. Can you  
22 tell me how old you are and how far you progressed in  
23 terms of formal education?

24 THE DEFENDANT: 42 and graduated from high  
25 school.

1           THE COURT: All right. And where did you attend  
2 high school? Where did you earn your degree?

3           THE DEFENDANT: In City High School -- I mean,  
4 North Kansas City High School.

5           THE COURT: All right. And I just want to make  
6 sure we're clear. Are you in that room by yourself?

7           THE DEFENDANT: Yes.

8           THE COURT: And do you know if you're allowed to  
9 remove your mask under these circumstances? I'm not  
10 requiring you to do that, but it may improve the  
11 communication. Thank you.

12          My question is whether or not you earned your high  
13 school degree from a high school or whether you earned a  
14 GED later.

15          THE DEFENDANT: GED.

16          THE COURT: Okay. And that's fine. When did you  
17 leave high school?

18          THE DEFENDANT: Junior year.

19          THE COURT: Understood. And any other training,  
20 any other certifications, additional education beyond  
21 earning your GED?

22          THE DEFENDANT: Just first aid training I took in  
23 2010.

24          THE COURT: Sure. Is there any reason why you  
25 would have trouble understanding the proceedings today in

1 particular -- whether because of an illness, because  
2 you're overly tired, because you're under the influence of  
3 a prescription medication or illicit drugs or alcohol,  
4 suffering from withdrawal -- any reason at all that you  
5 would have trouble understanding the proceedings today?

6 THE DEFENDANT: Maybe a little bit of anxiety,  
7 but I'm fine, Your Honor. Thank you.

8 THE COURT: Yeah. And I can kind of tell that by  
9 your affect. I can understand that there's an  
10 understandable anxiety, given the nature of the charge and  
11 the penalties involved here, but I want to make sure that  
12 that isn't interfering with your ability to follow along  
13 and to answer the questions that I ask with an  
14 understanding and with honesty.

15 THE DEFENDANT: Yes, yes, Your Honor.

16 THE COURT: Yes, you're capable of doing that?

17 THE DEFENDANT: Yes.

18 THE COURT: All right. And if at any point you  
19 need something repeated, you need me to rephrase a  
20 question, just feel free to tell me and I will happily do  
21 that. All right?

22 THE DEFENDANT: Yes.

23 THE COURT: Then let me begin by just confirming  
24 that you've had sufficient time to talk with your counsel  
25 about the charges against you, the facts the government

1 believes it could prove had this matter gone forward to  
2 trial, the statutory penalties as well as the Federal  
3 Sentencing Guidelines and how those guidelines could  
4 impact your sentence. Have you had a chance to talk about  
5 all of those subjects with your counsel?

6 THE DEFENDANT: Yes, yes, Your Honor.

7 THE COURT: All right. Then I'm going to begin  
8 by just asking you to state your understanding of the  
9 charge against you in Count 1 of the indictment; not  
10 formally what it charges, but your basic understanding of  
11 what you're being charged with doing.

12 THE DEFENDANT: Knowingly being with somebody  
13 under the age of 18.

14 THE COURT: And that's certainly part of the  
15 indictment, that you knowingly and intentionally used a  
16 minor, identified in the indictment as Minor A, to engage  
17 in sexually explicit conduct. The charge, in addition, is  
18 that you did that for the purpose of producing a visual  
19 depiction and that the visual depiction of Minor A engaged  
20 in sexually explicit conduct was actually transmitted  
21 using means for interstate or foreign commerce; that is, a  
22 computer or posting it online or some other means to  
23 actually transmit it. You understand that's the formal  
24 charge against you?

25 THE DEFENDANT: Yes, yes, Your Honor.



1           THE COURT: And do you also understand that if I  
2 were to accept your plea of guilty today and adjudge you  
3 guilty that you could be subject to the maximum and  
4 minimum penalties that were just reviewed by the assistant  
5 U.S. attorney?

6           THE DEFENDANT: Yes, Your Honor.

7           THE COURT: And in particular, you understand  
8 that by pleading guilty, you would be subject to a  
9 mandatory minimum penalty of 15 years in prison and a  
10 five-year period of supervised release; that is, I would  
11 have no choice but to impose at least that sentence? That  
12 would be the minimum that you would receive by pleading  
13 guilty today. And you could face a maximum penalty of 30  
14 years in prison, a \$250,000 fine, supervised release for  
15 life. And in addition, you could face -- you would face a  
16 hundred dollar special assessment, a \$5,000 additional  
17 special assessment, and entry of an appropriate  
18 restitution order. Do you understand that those are the  
19 minimum and maximum penalties that you face if adjudged  
20 guilty today?

21           THE DEFENDANT: Yes, Your Honor.

22           THE COURT: All right. There is mention in the  
23 plea agreement, although it doesn't sound as though either  
24 your counsel nor defense -- nor the government's counsel  
25 believe that it may apply, but if you would have been

1 subject to a prior conviction involving similar sexual  
2 offenses against a minor, do you understand that you could  
3 be subject to a mandatory minimum penalty of 25 years in  
4 prison and a maximum penalty of 50 years in prison?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. In addition, do you  
7 understand that if you were to violate the terms and  
8 conditions of release that you could be subject to  
9 additional penalties, up to and including additional time  
10 in prison?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. As for the sentencing  
13 guidelines, those are first calculated by the probation  
14 office. They'll look at the number of points attributable  
15 to your offense as well as any relevant conduct, which  
16 would include the number of images or other conduct  
17 related to the offense charged. They'll give you credit  
18 for accepting responsibility by pleading guilty, assuming  
19 there's no reason to deny you credit for that. They will  
20 also consider your role in this offense, your prior  
21 criminal history and any other factor that that office  
22 deems relevant.

23 At that point a presentence report is issued that you  
24 and your counsel can object to, as can the government's  
25 counsel. I would rule on those objections and then it is

1 my obligation to determine what the actual guideline range  
2 is for purposes sentencing. Do you understand that will  
3 be the process?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: While that will be the process, do  
6 you also understand that I am not bound to sentence you  
7 within the guideline range, but could give you a sentence  
8 down to the minimum of 15 years or up to the maximum of 30  
9 years or, if it applied, to the even higher mandatory  
10 minimum and the maximums?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: All right. You are waiving a number  
13 of valuable constitutional rights by pleading guilty  
14 today. And I'm confident that, because they are set forth  
15 in paragraph 2 of the plea agreement, that you and your  
16 counsel have already reviewed those rights. I'm not going  
17 to go through them in detail with you, but I do want to  
18 confirm your basic understanding of the rights you're  
19 giving up by pleading guilty, beginning with the most  
20 fundamental right of all, which is to maintain your plea  
21 of not guilty and to proceed to a jury trial. Do you have  
22 a general understanding as to what a jury trial would have  
23 entailed?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: What's your general understanding?

1           THE DEFENDANT: I take it to trial in front of a  
2 jury and state my case of not guilty.

3           THE COURT: And that's a fair summary. That jury  
4 that you described would be selected from a larger group  
5 of people taken at random from the voting rolls in the  
6 last presidential election, which is the western  
7 two-thirds of the state by geography; that is, those who  
8 voted in the Western District. That group would then be  
9 brought into the courtroom and you and your counsel and  
10 the government's counsel would participate with me in  
11 selecting the 12 individuals who would act as your jury.

12           At that point, as you say, you simply can maintain  
13 your plea of not guilty. The government would have to  
14 come forward with proof of your guilt. You could  
15 challenge that proof through cross-examination by your  
16 counsel or otherwise under the rules of evidence.

17           You could, as you alluded to, put on a defense,  
18 although you're not required to make any showing. If you  
19 wished, you could subpoena witnesses, you could present  
20 other evidence. You could even take the stand yourself at  
21 trial, although you could never be compelled to do so in a  
22 criminal case.

23           Ultimately, it's up to the jury, in private, with no  
24 one else present, to deliberate. And only if all 12 agree  
25 that the government has proven your guilt beyond a

1 reasonable doubt could you be adjudged guilty by this  
2 Court. Do you understand those are the rights you're  
3 waiving when you waive your right to a jury trial?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You also understand that by pleading  
6 guilty today, you will be waiving your right against  
7 self-incrimination as well as the right to require the  
8 government to prove every element of the charges against  
9 you?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. Finally, do you  
12 understand that once accepted, you will -- actually, I  
13 should confirm that you are -- you have an understanding  
14 that by pleading guilty to a felony offense that you may  
15 be deprived of valuable civil rights going forward,  
16 including the right to vote, to hold public office, to  
17 serve on a jury, and the right to possess any kind of  
18 firearm; not only own, but even possess any kind of  
19 firearm into the future.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Finally, do you  
22 understand that you have a right to court-appointed  
23 counsel, at government expense if necessary, through all  
24 stages of this proceeding?

25 THE DEFENDANT: Yes, Your Honor.

1           THE COURT: All right. Then at this time I'm  
2 going to ask the assistant U.S. attorney to summarize the  
3 basic terms of your written plea agreement. I would ask  
4 you to listen closely to her summary of the agreement  
5 because, at the end of it, I'm going to ask you if it's  
6 consistent with your understanding of that agreement. All  
7 right? You're prepared to proceed, Mr. Gardiner, with  
8 that summary?

9           THE DEFENDANT: Yes, yes, Your Honor.

10          THE COURT: Very good. Ms. Altman, if you would.

11          MS. ALTMAN: Thank you, Your Honor.

12          In addition to paragraphs 1 and 2, which the Court  
13 has already reviewed with the defendant, the defendant  
14 understands that if he is not a United States citizen,  
15 this conviction may lead to his removal from the United  
16 States. He nevertheless affirms that he wants to plead  
17 guilty, regardless of any immigration or removal  
18 consequences that plea may entail.

19          The United States agrees that this guilty plea will  
20 completely resolve all possible federal criminal  
21 violations that have occurred in the Western District of  
22 Wisconsin provided that the criminal conduct was known to  
23 the United States and the conduct relates to the conduct  
24 described in the indictment. This agreement not to  
25 prosecute is limited to those types of cases for which the

1 United States Attorney's Office has exclusive  
2 decision-making authority.

3       The United States agrees to recommend that the Court  
4 give the defendant the maximum available reduction for  
5 acceptance of responsibility. This is based upon facts  
6 currently known to the United States and is contingent  
7 upon the defendant continuing to accept responsibility  
8 according to the factors set forth in the guidelines.  
9 Additionally, this agreement to recommend a reduction for  
10 acceptance is based on the defendant providing a full and  
11 truthful accounting in the required financial statements  
12 and his efforts to make agreed-upon restitution payments.  
13 The United States agrees to recommend that this Court  
14 impose a sentence of no more than 20 years.

15       The defendant understands that restitution in this  
16 case is governed by statute. The exact restitution figure  
17 will be agreed upon by the parties prior to sentencing or,  
18 if we are unable to agree, we will ask the Court to make  
19 that determination.

20       The defendant agrees to complete a financial  
21 statement and return it to the United States Attorney's  
22 Office within one week of today's hearing. He agrees that  
23 this financial statement will be a full and truthful  
24 accounting and will include all supporting documentation.  
25 He also understands that, according to the paragraph --

1 according to paragraph 5, the United States' agreement to  
2 recommend a reduction for acceptance of responsibility  
3 will be based, in part, on his full and truthful  
4 accounting and his efforts to make restitution.

5 Paragraphs 9, 10, 11, 12, and 13 deal with the  
6 forfeiture of assets alleged in the indictment.

7 Essentially, the defendant agrees that he is the sole  
8 owner of the property listed in the indictment. He agrees  
9 not to file a claim to the property in any proceeding and  
10 he agrees to the forfeiture of the items without further  
11 notice. In the event that any party -- in the event that  
12 any governmental agency having custody of the property  
13 decides not to pursue forfeiture based on the minimal  
14 value of the property, the defendant abandons the interest  
15 he has in the property.

16 In the event of an appeal by either party, the United  
17 States reserves the right to make arguments in support of  
18 or in opposition to any sentence imposed by this Court.

19 Other than the discussion above with the 20-year  
20 recommendation, the defendant understands that sentencing  
21 discussions are not part of this plea agreement and that  
22 he should not rely upon the possibility of any particular  
23 sentence based upon discussions between his counsel and  
24 the United States.

25 By his signature on this plea agreement, he



1 acknowledges his understanding that the United States has  
2 made no promises or guarantees regarding the sentence that  
3 will be imposed. He acknowledges his understanding that  
4 the Court is not required to accept any recommendations  
5 made by the United States. He acknowledges his  
6 understanding that the Court can impose any sentence up to  
7 and including the maximum penalties set out in paragraph 1  
8 of this plea agreement and he acknowledges that this is  
9 the only plea agreement in this case and that a plea  
10 letter from December 20th of 2020 was rescinded.

11 THE COURT: And, Mr. Hargrove, is the summary  
12 just provided by the assistant U.S. attorney consistent  
13 with your understanding of the basic terms of the written  
14 plea agreement that the defense has entered into with the  
15 government?

16 MR. HARGROVE: It is consistent with my  
17 understanding of the terms and it is consistent with what  
18 I've discussed with my client, Mr. Gardiner.

19 THE COURT: And, Mr. Gardiner, is it also  
20 consistent with your understanding?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Did anyone make you any other promise  
23 than contained in the written plea agreement itself in  
24 order to get you to plead guilty today?

25 THE DEFENDANT: No, Your Honor.

1           THE COURT: Has anyone forced you or threatened  
2 you to plead guilty?

3           THE DEFENDANT: No, Your Honor.

4           THE COURT: Has anyone told you that by pleading  
5 guilty today, you're going to get a specific sentence from  
6 this Court other than a sentence between the mandatory  
7 minimum and the maximum that we've already discussed?

8           THE DEFENDANT: No, Your Honor.

9           THE COURT: And as you sit here today, do you  
10 think you already know what your actual sentence is going  
11 to be other than within that range?

12          THE DEFENDANT: No, Your Honor.

13          THE COURT: And I don't either. That's what the  
14 sentencing process is for. I just want to make sure that  
15 you're operating under the same understanding as I am.

16          Finally, do you understand that once accepted and  
17 adjudged guilty, you are not free to withdraw your plea of  
18 guilty, even if at the time of sentencing I determine not  
19 to follow any recommendation that the government has said  
20 it would make?

21          THE DEFENDANT: Can you --

22          THE COURT: Yeah. Absolutely. And it's a  
23 mouthful and I just wanted to make sure it's clear. In  
24 this case the government has not only said it would  
25 recommend, subject to certain conditions, a reduction in

1 the guidelines for acceptance of responsibility, but  
2 actually to recommend a 20-year sentence. And I want to  
3 make sure you understand that once I accept your plea of  
4 guilty today that you're not free to withdraw it, even if  
5 at the time of sentencing I determine not to follow the  
6 recommendation that the government has said it would make.

7 THE DEFENDANT: Oh, yes, Your Honor.

8 THE COURT: Okay. Then at this time I'm going to  
9 ask the assistant U.S. attorney to do one final thing and  
10 that is to summarize the basic facts that the government  
11 believes it could prove had this matter gone forward to  
12 trial. And I would again ask you to listen closely,  
13 because at the end of that recitation, I'm going to ask  
14 you if there's anything you believe the government could  
15 not prove. Ms. Altman.

16 MS. ALTMAN: Thank you, Your Honor. Had this  
17 case gone to trial, there would have been testimony that  
18 in July of 2019 a local foster mom called the police  
19 reporting that Minor A, a girl born in August of 2006, had  
20 been sneaking out of the foster home to meet with an adult  
21 male.

22 During the course of the investigation, Minor A's  
23 iPad was analyzed. On it, law enforcement found a video  
24 made at a Quality Inn in Madison. The video showed the  
25 victim lying on her back with her legs spread apart. The

1 defendant was on top of her inserting his penis into her  
2 vagina. The video was sent to the victim on July 3rd of  
3 2019. Hotel records showed the defendant stayed at the  
4 hotel on July 2nd of 2019.

5 After the defendant was arrested, he admitted coming  
6 to Madison on July 2nd, reserving a room at the hotel and  
7 having sex with the victim there. He admitted using his  
8 cell phone to videotape the sexual encounter and sending  
9 the video to the victim.

10 And we'd ask the Court to take judicial notice that  
11 Madison is in the Western District of Wisconsin.

12 THE COURT: Ms. Altman, I apologize, but I did  
13 not catch the age of Minor A.

14 MS. ALTMAN: She was 12, Your Honor, at the time,  
15 born in August of 2006.

16 THE COURT: Thank you. Let me ask first,  
17 Mr. Hargrove, from what you know about the record in this  
18 case, is there anything just reviewed by the assistant  
19 U.S. attorney that you believe the government could not  
20 prove at trial?

21 MR. HARGROVE: Judge, no. From my review of the  
22 discovery and my conversation with my client,  
23 Mr. Gardiner, there was nothing that was just stated on  
24 the record that I believe the government could not prove  
25 at trial.

1           THE COURT: And, Mr. Gardiner, anything that you  
2 believe the government could not prove?

3           THE DEFENDANT: No, Your Honor.

4           THE COURT: Then I am going to ask you to just  
5 tell me, in your own words, what it is that you did, what  
6 it is that you're proposing to plead guilty to.

7           THE DEFENDANT: Being with somebody under the age  
8 of consent.

9           THE COURT: And it's correct that you had  
10 arranged a rendezvous with Minor A, who was approximately  
11 12 years of age, and that you videotaped your having  
12 sexual intercourse with her?

13          THE DEFENDANT: Yes.

14          THE COURT: And it's also correct that in  
15 creating that visual record that it was actually  
16 transmitted using that cell phone or at least placed on a  
17 cell phone?

18          THE DEFENDANT: Yes.

19          THE COURT: Was it also a video that you  
20 maintained; in other words, did you have possession of it  
21 as well?

22          THE DEFENDANT: Yes, yes, Your Honor.

23          THE COURT: And did you post it anywhere?

24          THE DEFENDANT: No, Your Honor.

25          THE COURT: Understood. Any further allocution

1 that the government believes is necessary before I ask for  
2 a plea?

3 MS. ALTMAN: If you could just clarify, Your  
4 Honor, that he did send it to the victim, which I  
5 understand is not posting it anywhere, but that is an  
6 element of the charge.

7 THE COURT: Understood. And is that the case,  
8 that you had videotaped it yourself, but then forwarded it  
9 to the victim, Minor A?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. And, Mr. Hargrove, any  
12 reason why I shouldn't ask for your client's plea at this  
13 time?

14 MR. HARGROVE: Not at this time, Judge.

15 THE COURT: Then, Mr. Gardiner, I will ask you  
16 formally, how do you plead to Count 1 of the indictment?

17 THE DEFENDANT: Guilty of it, Count 1.

18 THE COURT: Based on my discussion with you and  
19 your counsel, as well as the record in the case as a  
20 whole, I am satisfied that you have entered a plea of  
21 guilty knowingly and voluntarily, after adequate  
22 opportunity to consult with your counsel, with an  
23 understanding of both the charges against you and the  
24 consequences of a plea of guilty. I am also satisfied  
25 that there's a factual basis for your plea.

1 And accordingly, I do find and adjudge you guilty of  
2 Count 1 of the indictment and I accept the plea agreement  
3 conditionally pending review of the presentence report.  
4 That report will be due on May 7th, with objections due on  
5 May 21st, and sentencing to proceed at 1 p.m. on June  
6 15th, 2020. I believe those dates were already disclosed  
7 to counsel, but I'll hear if there's anything more for the  
8 government at this time.

9 MS. ALTMAN: Nothing, Your Honor. Thank you.

10 THE COURT: Anything more for the defense,  
11 Mr. Hargrove?

12 MR. HARGROVE: Nothing Judge. Just for the  
13 record, the Court did say -- I believe the Court said 2020  
14 and I believe the Court meant --

15 THE COURT: That's a serious problem and it's the  
16 first time I've done that this year, which I'm surprised  
17 by. You're exactly right: June 15th, 2021, at 1 p.m. And  
18 I appreciate your clarifying that.

19 I just want to emphasize for you, Mr. Gardiner, that  
20 I really have no preconceived notion of an appropriate  
21 sentence here. Obviously the guideline, or the maximum  
22 and the mandatory minimums, are quite high. So I begin  
23 thinking about a sentence by looking at the presentence  
24 report. And I would encourage your cooperation in its  
25 preparation, because that is where I begin. However, I

1 | would even more urge you to follow the advice of your  
2 | counsel, Mr. Hargrove, whose job it is to look out for  
3 | your interests, in terms of your level of cooperation.

4           Ultimately, I'll consider any information that's  
5 provided to me as long as I get it at least two days  
6 before sentencing. But the sooner I get it, the better it  
7 can be vetted and the more confidence I can have in it.  
8 So I would encourage your sharing that information with  
9 the probation office even before its preparation of the  
10 report, although you can supplement it even after its  
11 preparation. And I will see you for sentencing on June  
12 15th of this year, as just discussed.

13 We are in recess. Thank you all.

14 MS. ALTMAN: Thank you, Your Honor.

15 THE DEFENDANT: Thank you, Your Honor.

16 MR. HARGROVE: Thanks, Judge.

17 (Adjourned at 12:05 p.m.)

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1 I, CHERYL A. SEEMAN, Certified Realtime and Merit  
2 Reporter, in and for the State of Wisconsin, certify that  
3 the foregoing is a true and accurate record of the  
4 proceedings held on the 25th day of March, 2021, before  
5 the Honorable William M. Conley of the Western District of  
6 Wisconsin, in my presence and reduced to writing in  
7 accordance with my stenographic notes made at said time  
8 and place.

9 Dated this 5th day of November, 2021.

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15 \_\_\_\_\_ /s/

16 Cheryl A. Seeman, RMR, CRR  
17 Federal Court Reporter  
18  
19  
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22 The foregoing certification of this transcript does not  
23 apply to any reproduction of the same by any means unless  
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